

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INFORMATION DISCLOSURE STATEMENT

Applicant(s): P. Bonutti

Attorney Docket No: 780-A03-021-5

Application No.: 10/755,996

Confirmation No.: 1472

Filed: January 13, 2004

Group Art Unit: 3731

For: JOINT SPACER

Examiner: M. Hoffman

Commissioner for Patents
Alexandria, VA 22313

Sir:

In accordance with the duty of disclosure provisions of 37 CFR § 1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject US patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

I. 37 CFR § 1.97 Basis. This Information Disclosure Statement is filed:

- A. under 37 CFR § 1.97(b);
 - 1. within three months of filing national application or the date of entry of an international application; or
 - 2. before mailing date for first office action on the merits; or
 - 3. before the mailing of a first office action after the filing of a request for continued examination under § 1.114.
- B. under 37 CFR § 1.97(c) after the 37 CFR § 1.97(b) time period, but before the mail date of any final office action, notice of allowance, or any action that otherwise closes prosecution in the application, together with either:
 - 1. a certification statement under 37 CFR § 1.97(e) (see II below), or
 - 2. a \$180.00 fee under 37 CFR § 1.17(p).
- C. under 37 CFR 1.97(d) after the 37 CFR § 1.97(c) time period, but before payment of the issue fee, together with:
 - 1. a certification statement under 37 CFR § 1.97(e) (see II below), and
 - 2. a \$180.00 fee under 37 CFR § 1.17(p).

II. Certification. Certification statement applicable if item I(B)(1) or I(C)(1) is checked:

- A. In accordance with 37 CFR § 1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement., or;
- B. In accordance with 37 CFR § 1.97(e)(2), it is certified that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known by any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

III. Attachments. United States patent documents are not being submitted pursuant to 37 CFR § 1.98(a).

X Enclosures accompany this Information Disclosure Statement are:

- A. foreign search reports
- B. foreign patent documents
- C. other publications listed on the attached PTO-1449, PTO/SB08a or PTO/SB08b

IV. Documents previously submitted for continuing applications.

- A. This application is a continuing application; accordingly, copies of publications listed on the attached Form PTO-1449, PTO/SB08a or PTO/SB08b from prior application no. _____, filed on _____, of which this publication claims priority under 35 USC § 120, are not being submitted pursuant to 37 CFR § 1.98(d).

V. Supplemental Information Disclosure Statement (check either V(A) or V(B))

- A. This Supplemental Information Disclosure Statement filed under 37 CFR § 1.97(f) supplements the Information Disclosure Statement filed on _____. A bona fide attempt was made to comply with 37 CFR § 1.98, but inadvertent omissions were made. These omissions have been corrected

herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on _____.

B. _____ This Supplemental Information Disclosure Statement is timely filed within one (1) month of a USPTO notice under 37 CFR § 1.97(i).

VI. No admission. No admission is made that the information cited in this Information Disclosure Statement is, or is considered to be, prior art or material to patentability. No representation is made by the filing of this Information Disclosure Statement that a search has been made other than a search report attached hereto. 37 CFR §§ 1.97.

VII. Comments.

VIII. Payment. If a fee is due pursuant to the above, payment by credit card is submitted herewith. The Commissioner is authorized to charge any additional or omitted fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Deposit Account 500601.

Respectfully submitted,



Paul D. Bianco, Ph.D.
Reg. No. 43,500

Fleit Gibbons Gutman Bongini & Bianco, PL
21355 East Dixie Highway
Suite 115
Miami, FL 33180
305/830-2600
305/830-2605 (fax)